

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DONALD LYLE STRATTON,

Plaintiff,

v.

M KARR et al.,

Defendants.

CASE NO. C12-5499 BHS-JRC

ORDER DENYING PLAINTIFF'S
MOTION TO AMEND THE
SCHEDULING ORDER

The District Court has referred this 42 U.S.C. § 1983 civil rights action to the undersigned Magistrate Judge pursuant to 28 U.S.C. §§ 636 (b)(1)(A) and (B) and Local Magistrate Judge Rules MJR 1, MJR 3, and MJR 4.

Plaintiff asks the Court to grant oral argument on his motions to extend deadlines and allow him to amend his complaint (ECF No. 26). The Court denies the motion for oral argument.

Plaintiff asks that the Court extend all deadlines by sixty days each and allow additional discovery (ECF No. 26). Plaintiff also states that he wishes to amend the complaint and add additional claims that have arisen since the filing of the original complaint (ECF No 26). Plaintiff alleges these claims involve denial of mental health care, retaliation for attempting to use a grievance procedure, and denial of access to courts (ECF No. 26, page 2).

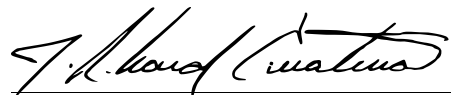
1 Plaintiff's original complaint names Pierce County Jail personnel and involves the time
2 frame when plaintiff was housed at the Pierce County Jail. When plaintiff filed his complaint he
3 was in the care and custody of the Washington State Department of Corrections (ECF No. 27,
4 page 2). Thus, plaintiff's new claims would be against completely different persons who have
5 not been named or served.

6 Defendants oppose the motion in part because it is not timely and in part because
7 plaintiff's new issues involve parties who are not before the Court and have not been served
8 (ECF No. 27). The motion was filed after the discovery deadline, but before the March 20, 2013
9 dispositive motion deadline. While plaintiff may have intended to file a reply, the file reflects
10 plaintiff filed a duplicate copy of defendants' response (ECF No. 28).

11 Fed. R. Civ. P. 6(b) allows the Court to extend a deadline before the deadline has passed
12 or if the deadline has passed, to extend the deadline if the party shows "excusable neglect."
13 Plaintiff has not shown any reason why he did not bring this motion in a timely manner. His own
14 exhibit shows that he had the relevant discovery responses as early as November, 2012 (ECF No.
15 26, Exhibit 1).

16 Under these facts, allowing amendment of the complaint at this late stage and reopening
17 discovery would be improper. Plaintiff's proposed amendment would entail starting over. The
18 motion is denied.

19 Dated this 6th day of March, 2013.
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22 J. Richard Creatura
23 United States Magistrate Judge
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